

**IN THE UNITED STATES PATENT AND TRADEMARK OFFICE**

In re Application of: Patrick M. McCarthy et al.

Docket No.: MYO1001US

Anticipated Classification of this

application: Class \_\_\_\_\_ Subclass \_\_\_\_\_

Prior Application: 10/136,446

Examiner:

Group Art Unit:

For: METHODS AND DEVICES FOR IMPROVING CARDIAC FUNCTION IN  
HEARTS

**CONTINUATION APPLICATION UNDER**  
**37 C.F.R. § 1.53(b) TRANSMITTAL**

MAIL STOP PATENT APPLICATION

Commissioner for Patents

P.O. Box 1450

Alexandria, VA 22313-1450

Dear Sir:

This is a request for the filing under 37 C.F.R. § 1.53(b) of a  
☒ continuation, ☐ divisional, ☐ continuation-in-part of pending prior U.S. Patent  
Application Serial No. 10/136,446, filed May 2, 2002, now pending, which is a  
continuation of 09/422,328, filed October 21, 1999, now U.S. Patent No. 6,406,420,  
issued June 18, 2002, which is a continuation-in-part of U.S. Patent Application Serial  
No. 09/124,286, filed July 29, 1998, now U.S. Patent No. 6,045,497, issued April 4, 2000,  
which is a continuation-in-part of U.S. Patent Application Serial No. 08/933,456, filed  
September 18, 1997, now U.S. Patent No. 5,961,440, issued October 5, 1999, which is a  
continuation-in-part of U.S. Patent Application Serial No. 08/778,277, filed January 2,  
1997, now U.S. Patent No. 6,050,936, issued April 18, 2000, entitled METHODS AND  
DEVICES FOR IMPROVING CARDIAC FUNCTION IN HEARTS and naming as  
inventors Patrick M. McCarthy having an address of 45002 Falls Road, Hunting Valley,  
OH 44022; Cyril J. Schweich, Jr. having an address of 1685 Hillcrest Avenue, St. Paul,  
MN 55116; Todd J. Mortier having an address of 3008 Colfax Avenue South,

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**Certificate of Express Mailing (37 C.F.R. § 1.10)**

I hereby certify that this paper or fee is being deposited with the United States Postal Service as "Express  
Mail Post Office to Addressee" Mailing Label No. EV 398760823 US in an envelope addressed to: Mail Stop  
Patent Application, Commissioner for Patents, P.O. Box 1450, Alexandria, VA 22313-1450 on the date  
indicated below.

Date: December 12, 2003

Signature: \_\_\_\_\_

Name: Jodi Jung

Minneapolis, MN 55408; Peter T. Keith having an address of 1477 Grantham Street, St. Paul, MN 55108; and Michael J. Kallok having an address of 2910 13<sup>th</sup> Terrance NW, New Brighton, MN 55112.

1. ☒ Enclosed are 51 pages of specification, 7 pages of claims (45 claims), 1 page of abstract, and 25 pages of drawings (FIGS. 1 to 55).
- 2a. ☒ Enclosed is a copy of an executed Declaration and Power of Attorney (2 pages) from the parent application.
- 2b. ☒ Enclosed is an executed Revocation of Former Powers of Attorney, New Power of Attorney by Assignee of Entire Interest, and Change of Correspondence Address (2 pages).
- 2c. ☒ Enclosed is an executed Statement Under 37 C.F.R. § 3.73(b) (1 page).
3. ☒ Incorporation by Reference. The entire disclosure of the prior Application No. 10/136,446, filed May 2, 2002, is considered to be part of the disclosure of the accompanying application and is hereby incorporated by reference.
4. ☒ Applicants claim small entity status.
5. ☒ The filing fee is calculated below.

CLAIMS FOR FEE CALCULATION					
Number Filed		Number Extra		Rate	Basic Fee \$385.00
Total Claims	45-20	25	X	\$9.00	\$225.00
Independent Claims	2-3	0	X	\$43.00	0
Multiple Dependent Claims	0	0	X	\$145.00	0
Total					\$610.00

6. ☐ The Commissioner is hereby authorized to charge any deficiency in fees which may be required, or credit any overpayment to Deposit Account No. 16-2312. A duplicate copy of this sheet is enclosed for that purpose.
7. ☒ A check in the amount of \$610.00 is enclosed to cover the filing fee.
8. ☒ 25 sheets of formal drawings are enclosed (FIGS. 1 to 55).
9. ☒ The Assignment records in the Patent and Trademark Office indicate that the parent application 09/124,286 is assigned to Myocor, recorded at reel 010338, frame 0483.
10. ☒ Address all future communications to:  
**Customer No. 009561**  
Popovich, Wiles & O'Connell, PA  
650 Third Avenue South, Suite 600  
Minneapolis, MN 55402
11. ☐ An Information Disclosure Statement (\_\_\_ pages), two copies of Form PTO-1449 (\_\_\_ pages) and copies of cited references (\_\_\_ documents) are enclosed.
12. ☒ A Preliminary Amendment (4 pages) is enclosed.

Respectfully submitted,

Date: 12/12/03

By

Terry L. Wiles  
**Customer No. 009561**

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